

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA  
CIVIL MINUTES - JURY TRIAL DAY

Phoenix Division

MDL 15-2641-PHX-DGC

DATE: 3/28/2018

Year Case No Initials

Title: IN RE: Bard IVC Filters Products Liability Litigation

HON: DAVID G. CAMPBELL

Traci C. Abraham

Deputy Clerk

Patricia Lyons/Elaine Cropper

Court Reporter

APPEARANCES:

Mark O'Connor, Julia Reed-Zaic, Robin Lourie, Joe Johnson, Paul Stoller,  
Joshua Mankoff, Roman Lopez

Attorney(s) for Plaintiff(s)

Richard North, James Condo, Elizabeth Helm, Greg Dadika

Attorney(s) for Defendant(s)

PROCEEDINGS:   X   Jury Trial Day 10

**1<sup>st</sup> Bellwether Trial -Plaintiff Sherr-Una Booker**

8:30 Court in session. Parties are present. Final jury instructions to be finalized today. Exhibits 4327 and 7312 discussed. Court will review cases cited before ruling admissibility. Plaintiff objections to Dr. Sobieszczyk testimony discussed. Court order doc. 10258 addressed. Court will allow Dr. Sobieszczyk to testify as stated on the record. 9:15 Jury present. Dr. Piotr Sobieszczyk sworn and examined. Exhibits 6827,6826,6822,6823,6710 admitted. Plaintiff moves to admit the entire medical record as to the CT scans, defendant no objection. Parties to agree and provide the disc to the Court. 10:34 Court in recess.

10:50 Court in session. Parties are present. Jury present. 10:51 Chad Modra sworn and examined. Exhibit 5691 pages 12-32,5706 pages 48-61, 5991 admitted. 12:00 Jury excused. Counsel to return at 12:50 to discuss jury instructions and exhibits 4327 and 7312. 12:02 Court in recess.

12:50 Court in session. Parties are present. Exhibits 4327 and 7312 will be admitted as stated on the record. Finalizing of jury instructions. 1:03 Jury present. Exhibit 4327 and 7312 admitted with explanation to the jury. 1:04 Chad Modra examination continues. Exhibit 5995,5994 admitted subject to redactions of the parties. Exhibit 5851,5872,5483,5560,5874,2217 admitted. 2:30 Court in recess.

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Day 10 Jury Trial

2:48 Court in session. Parties are present. Jury present. Chad Modra examination continues. Exhibit 2048 admitted. 3:05 Defendant rest. 3:05 Plaintiff no rebuttal. Exhibit 6842 admitted. 3:10 Jury excused until 3/29/2018 at 9:00 a.m. 3:12 Defendant's oral motion for Rule 50 judgment as a matter of law argued. Motion denied. 3:42 Plaintiff's 1<sup>st</sup> oral motion for Rule 50 judgment as a matter of law re: superseding cause defense based on actions of Dr. Kang argued. 3:57 Plaintiff's 2<sup>nd</sup> oral motion for Rule 50 judgment as a matter of law re: Bard's comparative fault defense based on the actions of Dr. Amer and superseding cause defense based on the actions of other radiologists argued. Motions under advisement. Court will enter an order. Dr. Sobieszczyk testimony, ruling on motion in limine and plaintiff basis for excluding missed opportunity evidence discussed. Intervening cause instruction and defense in case discussed. Verdict form discussed. Plaintiff renewed request for FDA limiting instruction. Plaintiff request additional time. Defendant objects. Court will allot plaintiff one hour and 15 minutes for closing and 35 minutes for argument on punitive damages. 4:38 Court in recess.

Trial will continue on 3/29/2018 at 8:45 a.m.